§761.60 Disposal Requirements

General

Q: ***When I sample an article to test for PCB concentration, should I take the sample before the article is taken out of service, or before it is disposed of?***

A: Either is acceptable, as long as the article is correctly characterized prior to disposal.

Q: ***I plan to dispose of PCB Articles by draining the liquid, adding absorbent, and landfilling the drained PCB Articles. Must I notify the landfill before sending this waste?***

A: No. Disposal options for PCB-Contaminated Articles, including electrical equipment, from which all free-flowing liquid has been removed, include a State-permitted municipal or non-municipal non-hazardous waste landfill and a TSCA chemical waste landfill. (See §761.60(b)(6).) You may dispose of PCB Transformers in a TSCA chemical waste landfill after removing all free-flowing liquid and flushing with solvent. (See §761.60(b)(1).) Neither of these provisions requires notification prior to disposal. The PCB rules do not require that absorbent be added to either type of equipment before it can be land disposed. If you do add absorbent, it would be prudent to check with the landfill, as it may have restrictions on disposal of absorbents.

§761.60(a) PCB liquids

Q: ***May I dispose of liquids containing ≥50 ppm PCBs in a landfill?***

A: No, with one exception. The only liquids containing ≥50 ppm PCBs that you may dispose of in a landfill are non-ignitable PCB liquids at actual concentrations <500 ppm that are incidentally derived from PCB Articles or non-liquid PCB wastes (for example, precipitation, condensation, leachate, or load separation). The PCB regulations allow you to dispose of these liquids in a chemical waste landfill that complies with §761.75. However, even though the PCB regulations allow the disposal of certain liquids in landfills, the disposal of the liquids in the landfill may be prohibited by other Federal, state or local regulations or permits.

You must dispose of all other liquids containing ≥50 ppm PCBs either by decontamination under §761.79, or, depending on the concentration of the liquid waste, in an incinerator that complies with §761.70 or a high efficiency boiler in accordance with §761.71.

§761.60(b)(1) PCB Transformers

Q: ***How must I drain all free-flowing liquid from transformers?***

A: You must "remove" free-flowing liquids from electrical equipment (see §761.60(b)).

Draining the equipment is one option. Other options are pumping, vacuuming, or any other physical method.

Q: What are the disposal options for solvents used to soak drained PCB Transformers prior to disposal under §761.60(b)(1)(i)(B)?

A: Dispose of these solvents in an incinerator that complies with §761.70 or decontaminate them in accordance with §761.79..

§761.60(b)(4) PCB-Contaminated Electrical Equipment

Q: It is impossible to drain PCB-contaminated transformers dry without having some oil leak back out of the paper and windings during shipment and storage. What is the best way to properly recycle the carcasses?

A: EPA recognizes that it can be difficult to remove liquid from the inner workings of electrical equipment, whether by draining, pumping, vacuuming, or another removal method. EPA suggests you drain, pump, or otherwise remove the liquid twice so that as little liquid as possible remains in the unit when you dispose of it. A facility that receives electrical equipment carcasses for recycling must capture all free-flowing liquid when it disassembles the carcasses and dispose of the liquid in accordance with §761.60(a). (See §761.60(b)(6)(ii)(A).) The recycler may remove liquid that remains as a thin coating on metal through one of the decontamination processes described in §761.79, properly disposing of decontamination waste such as contaminated solvent.

§761.60(b)(5) Abandonment and Disposal of Natural Gas Pipeline Systems

§761.60(b)(5)(i) Abandonment

Q: A company plans to abandon a section of pipe that is a dead end line. The pipe has no sources, but does have drips. Neither the pipe nor the drips have ever been tested for PCBs, nor have any liquids ever been removed from the pipe. The pipe may be filled with water due to leakage. Testing done upstream detected no PCBs. What is required for abandonment?

A: Pipe that contains <50 ppm PCBs is not regulated for disposal, including abandonment. There is no need to test for PCBs if the system has never shown evidence of PCB contamination. As long as the natural gas pipeline system upstream has never had PCBs ≥50 ppm and there are no sources, then testing is not necessary.

Q: A local natural gas utility company has historical information showing PCBs <50 ppm in its distribution system and drip liquids. A subsequent testing program using wipe tests of the entire distribution area (incoming interconnect feeds, area loops and the internal surfaces of low-lying pipe) shows PCBs <50 ppm. Is this information satisfactory for characterization of the area piping network? Does the local

distribution company have to ensure that all liquids are drained from abandoned pipe or can it just cap the ends and abandon the pipe in place?

A: Until the abandonment occurs, the pipe is technically "in use" and the regulations at §761.30(i) apply. At the time of abandonment, if there is no reason to believe that PCBs are present in the system, then there is no reason to test. There is no requirement to test under §761.60(b)(5). However, there is a requirement to determine if your natural gas pipeline system is subject to the PCB disposal regulations. If you choose not to test, and the pipe is later discovered to be regulated, you will be in violation of the regulations. If the pipe contains PCBs <50 ppm, then the pipe should be abandoned according to best management practice. If the pipe contains PCBs ≥50 ppm, then the pipe should be abandoned according to §761.60(b)(5), which requires the removal of free flowing liquids, except for the provision in §761.60(b)(5)(i)(D).

Q: A company purchased property, prior to August 28, 1998, that had an abandoned pipe, sealed at both ends. There was documentation that PCBs were <50 ppm. What must the company do to comply with the Disposal Amendments?

A: Since the pipe has already been abandoned prior to the effective date of August 28, 1998, the new rule does not apply as it is prospective.

Q: In §761.60(b)(5)(i), what is meant by "sealing ends"? What was the intent and how permanent does the sealing need to be? The normal practice for this company is to cap with plastic caps and secure with duct tape. If a pipe is grouted they use a more permanent method such as welding.

A: The intent was to permanently keep things from entering and exiting the pipe. There was no specific method required, but best management practice should be applied to prevent releases and exposure and to keep your liability at a minimum. EPA would consider both welding metal caps to metal pipes and sealing plastic caps to plastic pipe with the glue used to join pipe as permanent options, but would not consider plastic caps secured with duct tape as an acceptable option.

<u>Small Diameter Pipe</u>

Q: Does small diameter pipe that contains PCBs have to be characterized before abandonment?

A: No, characterization is not required for small diameter pipe, i.e., pipe having a nominal inside diameter of ≤four inches. (See §761.60(b)(5)(i)(A).) However, if the pipe is in use before the abandonment takes place, then all applicable requirements under §761.30(i) need to be followed, including characterization.

<u>Leaking of abandoned pipe</u>

Q: How does EPA plan to deal with pipe abandoned before August 28, 1998 if the pipe is later found to leak liquids with a PCB concentration ≥50 ppm?

A: If the pipe leaks liquids with a PCB concentration ≥50 ppm, then it is considered a spill and the waste from the spill needs to be cleaned up under §761.61.

§761.60(b)(5)(ii) Removal with subsequent action

Decontamination

Q: What method may I use to decontaminate gas pipeline to the standard for unrestricted use in §761.79(b)(3)(i)(A)?

A: You may use any decontamination method specified in §761.79(b), provided confirmatory sampling is done in accordance with Subpart P to verify that the standard for non-porous surfaces, ≤10 ug/100 cm^2, has been met. You may also use the decontamination methods in §761.79(c)(3) or (4) or §761.79(h), per §761.60(b)(5)(i)(D).

Q: A company plans to decontaminate natural gas pipe to ≤10ug/100cm^2 using §761.79(b)(3). Decontamination under this paragraph also requires confirmatory sampling in accordance with Subpart P. Can the company use Subpart M instead of Subpart P, as Subpart M was specifically written for wipe sampling natural gas pipe?

A: In this situation, if the company wants to use Subpart M in place of Subpart P, they should apply for an alternate sampling approval under §761.79(h)(3). This requires submitting a letter to the EPA Regional Administrator requesting the use of Subpart M in place of Subpart P. §761.79(h)(3) outlines what information is required in this application. Until the application is approved by the EPA Regional Administrator, Subpart M cannot be used.

Storage for disposal

Q: What are the physical requirements for storage of dry PCB pipe for disposal?

A: Store dry pipe in accordance with §761.65. Dry pipe may be treated as remediation waste and stored temporarily in accordance with §761.65(c)(9).

§761.60(b)(5)(iii) Characterization of natural gas pipeline systems by PCB concentration in condensate

Historical records

Q: Can historical records be used to establish PCB concentration for pipeline abandonments or disposal?

A: No. Historical data may not be used for purposes of abandonment or removal of natural gas pipeline systems containing ≥50 ppm PCBs under §761.60(b)(5). Section 761.60(b)(5)(iii) provides the characterization requirements for abandonment or removal of natural gas pipeline. Under this section, you must collect samples within 72 hours after the last transmission of gas through the system when abandoning pipe, or after the last transmission of gas through the system when removing the pipe for disposal.

Q: A particular pipeline system has an "indicator" of PCBs. If an oil-like sludge is present in this system, then the system will most likely contain PCBs. If there is no sludge, then there are usually no PCBs present in this system. Approximately 300 drips have been tested and they have found no PCBs in the pipeline system. Additionally, there is no oil-like sludge present. The pipeline system contains no sources. Can this historical data and generator knowledge be used to avoid sampling for use and abandonment?

A: The idea behind requiring sampling for use authorization was to sample successively if you had a PCB hit or you knew there were PCBs in the system. Under §761.30(i)(1)(iii)(A)(5), you must do successive sampling until PCBs are <50 ppm for two consecutive testings, with a minimum interval of 180 days between tests. However, in this particular case, if your test results show that there are no PCB sources ≥50 ppm in the system, then there is no reason to sample.

For abandonment, sample if you believe there may be PCBs ≥50 ppm in the system. Even if PCBs were ≥50 ppm, depending on which option is chosen, you may not need to sample. If sampling is required, then you must characterize the natural gas pipeline system in accordance with §761.60(b)(5)(iii).

<u>Sampling</u>

Q: What is the sampling requirement when abandoning pipe?

A: According to §761.60(b)(5)(iii), if there are liquids present, then characterize the pipe based on the concentration of PCBs in the organic condensate. However, if there are no liquids present, then you must do a wipe sample in accordance with Subpart M (§761.250). For abandonment of pipe, §761.250(b) requires that, at a minimum, all ends of all sections of pipe be sampled. Section 761.250(b)(1) and (2) provide sampling procedures for pipe in specific locations. Section 761.250(b)(3) provides a sampling procedure to collect samples in addition to those that are required. This procedure is optional.

Q: Section 761.60(b)(5)(iii) addresses characterization of pipe by the concentration of the condensate. What do you do if you can't get to the pipe within 72 hours of the last transmission of gas? For example, how does this apply to an old piece of pipe? Are there any contingencies?

A: This provision was intended to help provide a more accurate concentration of PCBs in the condensate. The longer the PCBs remain in the pipe after the last transmission of gas, the more likely it is that the PCBs will concentrate, increasing the concentration of the PCBs in the condensate. If organic liquids are present, the liquids should be collected within 72 hours of the final transmission of natural gas through the pipeline system. If there are no free flowing liquids present, a wipe sample should be taken after the final transmission of natural gas through the pipeline system. In most cases, it should be known well in advance that a pipeline system will be abandoned or removed for disposal. Therefore, it should not be difficult to comply. If it is an emergency abandonment or removal and it is not possible to sample the condensate in the pipe within 72 hours, please contact the Office of Enforcement for information on compliance. Also, if you are dealing with an old piece of pipe, please contact the Office of Enforcement.

Q: For large pipes in excess of 4 inch nominal interior diameter, are there limits on the length of pipe to be tested and to be abandoned under §761.60(b)(5)?

A: There are no restrictions on the length of pipe for abandonment or testing for abandonment.

Q: How many samples must I take for abandoned pipe?

A: At a minimum, §761.250(b) requires you to sample all ends of all pipeline sections. Under §761.250(b)(3), there are procedures for selecting other locations if additional sampling is desired.

Q: How can appurtenances removed from a pipeline be characterized for disposal if the pipeline is not tested?

A: Natural gas pipeline systems, which include appurtenances, must be characterized based on the concentration of PCBs in the organic condensate (§761.60(b)(5)(iii)). If there are no liquids present in the appurtenance, then the appurtenance could be disposed of as PCB remediation waste under §761.61. Section 761.61(b)(2)(ii) allows decontamination in accordance with §761.79. Under §761.79(b)(3)(i)(A) you may use Subpart P to sample and characterize the appurtenance. Additionally, you may submit an alternate sampling plan under §761.61(c) or §761.79(h).

Q: How is a short section of greater than four inch diameter gas pipeline tested for disposal? For instance, for a 30 foot section of eight inch pipe, the seven samples called for in §761.247 of Subpart M seem excessive.

A: Under §761.60(b)(5)(ii), there are several options to dispose of the pipe, and only one of these options requires sampling for PCB contamination, disposal of PCB-Contaminated pipe. If you choose this option, then under §761.247, if you only have one pipe segment (a pipe segment can be up to 40 feet in length), you only need one sample. If you have more than one segment however, you need more than one sample. As an alternative to the

Subpart M sampling procedure, you may request a risk-based sampling approval under §761.61(c).

Q: ***When disposing of natural gas pipe pursuant to §761.60(b)(5)(ii)(A)(1), is it acceptable to characterize the pipe using only samples from organic liquids collected at condensate liquid collection points, or must the concentration be determined in accordance with Subpart M?***

A: Characterize the pipe in accordance with §761.60(b)(5)(iii). Characterize pipe using the organic liquids collected at condensate collection points. If no liquids are present, collect wipe samples in accordance with Subpart M.

Q: ***A 320 foot segment of pipe will be removed for disposal. PCBs are present in the system, but the level of contamination is unknown. The system slopes, so there are no liquids present. A wipe test will be done to determine the level of PCBs. If the result is $\leq$10 μg/100 cm^2, is the pipe regulated? For this 320 foot segment, do you have to apply the sampling method in §761.247?***

A: The sampling method for disposal of natural gas pipeline systems is in §761.247. Once you have sampled the pipeline segment, you may use §761.257 in order to determine the regulatory status of the sampled pipe segment. If the wipe test result is $\leq$10 ug/100 cm^2, then the pipe is not regulated for disposal under §761.60(b)(5). Since you know the system contains PCBs, it may be more beneficial to forego sampling and just assume the entire system contains PCBs $\geq$50 ppm, and dispose in accordance with §761.60(b)(5)(ii)(B). Otherwise, you must use the method in §761.247 to sample the pipe or apply for a risk-based alternative sampling approval under §761.61(c).

Q: ***Do the regulations permit wipe sampling of small diameter pipe, with a diameter of 4 inches or less?***

A: The regulations do not include a protocol for wipe sampling small diameter pipe. All comments that were received regarding this issue stated that it was difficult, if not impossible, to wipe sample pipe with a diameter of 4 inches or less. These commenters stated that other options should be made available. There were no comments requesting wipe sampling of small diameter pipe. Information received by EPA shows that it is difficult to obtain enough constant pressure when sampling these small pipes. Thus, the results are not consistent. If you want to wipe sample small diameter pipe, you must apply for an alternate sampling method under §761.61(c) (or under §761.79(h) if you plan to dispose of the pipeline by decontaminating it).

Q: ***If I sample a main line and find no PCBs, may I assume that all of the service lines that come off of it are also non-PCB?***

A: No, not necessarily. When characterizing a pipe under §761.30(i) or §761.60(b)(5), the PCB level in the condensate is assumed to extend only to the next liquid collection point

downstream. Thus, further characterization may be necessary.

Q: ***If I have only one liquid collection point that I sample within 72 hours of the last gas transmission and find it is ≥50 ppm, may I wipe sample other sections of pipe below that point and remove those sections for disposal based on a lower concentration, if it is ≤10 μg/100 cm^2? Along a length of 5000 feet of pipe, there are no other liquid collection points to sample below the one that is ≥50 ppm.***

A: Under §761.60(b)(5)(iii), you must characterize natural gas pipeline based on the concentration of PCBs in the organic condensate. Therefore, if there are liquids present, even just at one collection point, the pipeline must be characterized based on that sample. The only way you could use a wipe sample in this situation is if you submit an alternate sampling plan under §761.61(c) (or under §761.79(h) if you plan to dispose of the pipeline by decontaminating it).

Porous surfaces

Q: ***A company needs to abandon some old pipe that contains all porous surfaces. These porous surfaces are not due to the thin porous coating used to prevent corrosion and there are no liquids present. When sampling pipe for abandonment does one need to be concerned with the presence of porous surfaces?***

A: Yes. You must characterize a natural gas pipeline system by analyzing organic liquids collected at the condensate collection points (see §761.60(b)(5)(iii)). If there are no liquids present you must wipe sample in accordance with Subpart M, §761.250(a)(2). Select the proper sampling position along the pipe by following the directions in §761.247 (c) and (d). Then, according to §761.247(c)(3)(iii), if the entire population of pipe to be wipe sampled is porous and there are no non-porous surfaces available, assume that the pipe contains PCBs ≥50 ppm but <500 ppm and is PCB-Contaminated. Subsequently, an appropriate provision in §761.60(b)(5)(i) must be used to abandon the pipe. If you do not want to assume that the pipe is PCB-Contaminated, then you may apply for an alternate sampling plan under §761.61(c).

§761.60(b)(5)(iv) Disposal of pipeline liquids

Q: ***Section 761.60(b)(5)(iv)(B) allows gas pipeline liquids containing PCB concentrations of <50 ppm to be burned for energy recovery per §761.20(e). Can this waste be disposed of rather than burned for energy recovery? Is it subject to storage, marking, and manifest requirements if the PCB concentration is <50 ppm?***

A: The waste can be disposed of as a non-PCB waste since it is <50 ppm. The waste is not subject to the storage, marking, and manifest requirements for PCB waste when it is <50 ppm.

Q: ***Do you need a manifest in order to transport pipeline liquids with PCBs to a***

consolidation site before disposal?

A: No, you do not need a manifest if you are transporting the liquids to your own property or a "related company", for purposes of consolidation. The consolidation site would not be a "Commercial storer of PCB waste" under the definition at §761.3, since the storage activities do not involve waste generated by others.

§761.60(b)(6) PCB-Contaminated Articles

Q: Does EPA encourage recycling of PCB-Contaminated Articles?

A: EPA included decontamination provisions in the Disposal Amendments at §761.79 in part to address questions on removing PCBs from reusable materials. Decontamination is a disposal option for PCB-Contaminated Articles (see §761.60(b)(6)(ii)(A)(*1*)). There is no regulatory requirement to use PCB disposal options which result in recycling instead of or in preference to disposal options which do not result in recycling.

Q: When I dispose of a drained PCB-Contaminated Article in a municipal or non-municipal, non-hazardous waste landfill, must I notify the landfill as is required for PCB bulk product waste?

A: No.

Q: For a facility sending PCB-Contaminated Articles, such as electrical equipment, to an industrial furnace, what is the responsibility of the facility to verify that the smelter is operating correctly under §761.72?

A: The facility generating the PCB waste is strictly liable for its proper disposal. The generator therefore is responsible for determining whether the smelter or other disposal facility meets the regulatory requirements for disposing of the generator's waste.

Q: Given that storage for disposal of drained PCB-Contaminated Articles is not regulated, is this equipment exempt from monthly storage inspections and can it be stored for disposal at any location?

A: Yes.

Q: If I store a drained PCB-Contaminated transformer for disposal for more than nine months, must I file an exception report?

A: Storage for disposal of drained PCB-contaminated articles, including transformers, is not regulated (see §761.60(b)(6)(ii)(B)). Therefore, neither the one-year disposal requirement nor the one-year exception reporting requirement apply to the waste.

Q: Now that drained PCB-Contaminated transformers are regulated for disposal, must I

manifest them? If so, must I include them on the annual document log?

A: Manifesting and recordkeeping requirements do not apply to PCB-Contaminated Articles from which all free-flowing liquids have been removed (see §761.60(b)(6)(ii)(C)).

Q: Must I mark a drained PCB-Contaminated Article with the M_L? May I remove the mark prior to sending the drained article to a municipal waste landfill?

A: You are not required to mark PCB-Contaminated Electrical Equipment (see §761.40(c)(1)). For equipment that does require a mark, the regulations do not allow you to remove the mark at the time of disposal.

§761.60(b)(8) Dermal and Inhalation Protection

Q: Does the requirement to protect against dermal and inhalation exposure to PCBs apply only to liquid PCBs, or are powders and intact non-liquids also included?

A: Persons disposing of PCB Articles must be protected from dermal and inhalation exposure to PCBs in whatever form.

Q: Is it the generator's responsibility to determine the appropriate dermal protection for handling PCB-Contaminated surfaces? What are some appropriate examples? Why doesn't the rule specify the type of protective equipment personnel are required to have?

A: Yes, the generator must determine what is appropriate dermal protection. Use any type of equipment appropriate to protect the person handling the contaminated materials. The rule does not specify the type of equipment to use because this will vary from one disposal scenario to the next. If paint chips are being handled, wearing latex gloves is a good example of appropriate dermal protection; however, latex gloves would not be suitable protection for handling liquid PCBs.

Q: How is personal protective equipment generated from routine activities at PCB storage and disposal facilities regulated for disposal?

A: Dispose of this waste as PCB remediation waste in accordance with §761.61(a)(5)(v).

§761.60(e) Alternate disposal approvals

Q: May I decontaminate a PCB Transformer under a §761.60(e) approval?

A: No. Under §761.60(e), EPA approves alternate disposal technologies that are equivalent to incineration. Decontamination standards and procedures are set out in §761.79. Generally, decontamination is not appropriate for intact electrical equipment. However, you may apply to the EPA Regional Administrator for a risk-based decontamination

approval under §761.79(h). The EPA Regional Administrator will decide whether decontamination is appropriate under your particular circumstances.

§761.60(g) Testing Procedures

Q: ***Is a field screening kit such as a chloronol test acceptable for characterizing PCB electrical equipment and mineral oil for disposal?***

A: No. You must conduct chemical analysis using gas chromatography (see §761.60(g)(1)(iii)).

§761.60(j) Disposal of Research and Development PCB Waste

§761.3 Definition of "research and development (R&D) for PCB disposal"

Q: ***Are samples of waste used in treatability studies covered by the self-implementing provisions for research and development for PCB disposal?***

A: The definition of "research and development (R&D) for PCB disposal" includes treatability studies for PCB disposal technologies which have not been approved.

General

Q: ***Do the R&D for PCB disposal requirements apply only to material with a PCB concentration that is known or assumed to be ≥50 ppm?***

A: The regulations affecting disposal of PCBs apply generally to PCBs ≥50 ppm or to PCBs that are <50 ppm as a result of dilution. If you plan to conduct R&D for disposal activities with waste at these concentrations, you must either do so in accordance with the provisions for self-implementing R&D for PCB disposal (§761.60(j)(1) and (2)), or get an R&D for PCB disposal approval (§761.60(j)(3)).

Q: ***If a facility has two disposal technologies and studies wastes from multiple generators in each technology, does the facility have to notify EPA for each of the two technologies, or for each waste source?***

A: If your facility has two technologies that treat waste from multiple sources, you must notify EPA for each technology. You do not need to notify for each waste source.

Q: ***Do the annual limits on volume of waste (500 gallons or 70 cubic feet) apply to each technology, or to the source of material used in the study?***

A: A facility may treat no more than 500 gallons or 70 cubic feet of liquid or non-liquid waste per year. These amounts are cumulative. The number of sources of waste and the number of treatment technologies the facility conducts do not affect these limits.

Q: Does the 10,000 ppm limit apply to each sample that I use in a treatability study?

A: Yes, the limit applies to each individual sample that you use. No single sample may exceed a concentration of 10,000 ppm PCBs.

Q: May I store treatability study material in facilities other than those described in §761.65(b)?

A: Not without an alternate storage approval issued under §761.61(c) or §761.62(c).

Q: Section 761.60(j)(1)(vi) states that all wastes produced from self-implementing R&D for PCB disposal activities are regulated for disposal at their undiluted PCB concentration; however §761.64 allows disposal of certain laboratory wastes associated with R&D at their post R&D concentration (that is, at their concentration at the time of disposal). Why do these provisions conflict?

A: The large amount of process wastes from self-implementing R&D for PCB disposal activities is regulated for disposal under §761.60(j)(1)(vi), not under §761.64. Section §761.64 is intended to address only the small quantities of waste generated during chemical analysis of wastes or from scientific studies not related to disposal. The only portion of §761.60(j) wastes which may be disposed of in accordance with §761.64 are the portions which have been analyzed for purposes of determining the concentration of the waste prior to, during, or after the disposal research. The large amount of process wastes, which are treated during the disposal process, are regulated for disposal at their undiluted PCB concentration prior to treatment.

Q: Section 761.60(j)(1)(vi) states that laboratory instrumentation must be disposed of. Why can't laboratory instrumentation that's contaminated be decontaminated and reused, rather than disposed of, where decontamination is feasible?

A: EPA did not intend this provision to mean that you cannot reuse laboratory instruments. However, at the end of the equipment's useful life, you must dispose of it based on the pre-treatment concentration of the PCBs that contaminated it. You do not need to decontaminate laboratory instruments after each use. However, when the instrument is cleaned during normal maintenance or according to the manufacturer's recommendations, the residual PCB-containing waste must be disposed of in accordance with §761.64. Instruments must be decontaminated in accordance with §761.79 prior to distribution in commerce.

Q: Must I manifest waste from R&D for PCB disposal?

A: You must manifest wastes from R&D for PCB disposal activities that are shipped from the R&D facility to an approved PCB storage or disposal facility. However, you do not need to manifest PCB materials being shipped from the lab back to the source. (See §761.60(j)(1)(vii).)

§761.60(j)(3) R&D for PCB disposal approval

Q: ***Previous to the new rule, when R&D permits still existed, it was common for a project manager to receive a sample for testing 24-48 hours after the initial call and to begin the study immediately. It is widely believed among these managers that the 30 day notification lag will adversely impact their ability to serve the clients in a timely fashion. Would it be acceptable for a laboratory manager to send the Regional Administrator a "notification of intent to perform" letter annually and another notification upon receipt of each sample that details sample quantity, technology to be used, and start/end dates, to avoid the 30-day notification lag?***

A: The EPA Regional Administrator, the State environmental protection agency, and the local environmental protection agency may waive notification in writing prior to commencement of the research. (See §761.60(j)(1)(ii).) Alternatively, you may avoid the notification requirement by requesting and receiving an R&D for PCB disposal approval under §761.60(j)(3).

§761.61 PCB Remediation Waste

Definition of "PCB remediation waste"

Q: ***The definition of "PCB remediation waste" refers to "buildings contaminated from a transformer." What about leaks from other articles?***

A: Buildings contaminated by spills of PCBs from any source may fall within the definition of PCB remediation waste. "PCB remediation waste" means waste contaminated with PCBs as a result of a spill, release, or other unauthorized disposal of PCBs. Paragraphs (1) through (3) of the definition give examples of materials that fall within the definition, not an exclusive list of the materials that may be PCB remediation waste.

Q: ***Section 761.3 defines "PCB remediation waste" to include waste containing PCBs as a result of a spill, release, or other unauthorized disposal, and "materials which are currently at any concentration if the PCBs are from a source not authorized for use under this part". What is considered as a source not authorized for use?***

A: Under TSCA §6(e), use of PCBs is banned unless specifically authorized or excluded by regulation. In the regulations, authorizations appear in §761.30 and exclusions appear in §761.20. PCBs from any use not authorized or excluded under these rules are from a source not authorized for use.

Q: ***To what does the phrase "porous surfaces and non-porous surfaces" used in paragraph (3) of the definition of "PCB remediation waste" refer?***

A: "Porous surface" and "non-porous surface" are defined in §761.3. A porous surface or

non-porous surface contaminated with PCBs by a spill, release, or other unauthorized disposal is "PCB remediation waste" if it otherwise meets the requirements of that definition.

Q: Is contaminated media from a post-1979 spill considered remediation waste?

A: Media such as soil, gravel, sludge, and sediments currently at any concentration that were contaminated after July 2, 1979, by a spill of PCBs ≥50 ppm fall within the definition of PCB remediation waste.

Q: Does the definition of "PCB remediation waste" include paint containing PCBs that was not authorized for use when it was applied?

A: "PCB remediation waste" includes only waste containing PCBs as a result of a spill, release, or other unauthorized disposal, not materials such as paint to which PCBs were added during manufacture. Therefore, paint manufactured to contain PCBs would not fall within the definition of PCB remediation waste (see instead the definition of "PCB bulk product waste").

Q: Is "PCB remediation waste" the same as "bulk PCB remediation waste"?

A: Bulk PCB remediation waste is just one category of PCB remediation waste. Bulk PCB remediation waste includes non-liquid PCB remediation waste such as soil, sediments, dredged material, muds, PCB sewage sludge, and industrial sludge.

Q: Does PCB remediation waste include sewage and other sludges?

A: Yes. The definition of "PCB remediation waste" includes:

- sewage sludge containing <50 ppm PCBs that is not in use for land application as allowed under RCRA or the Clean Water Act
- "PCB sewage sludge", i.e., sewage sludge as defined pursuant to the Clean Water Act that contains ≥50 ppm PCBs
- commercial or industrial sludge contaminated as the result of a spill of PCBs, including sludges located in or removed from any pollution control device
- aqueous decantate from an industrial sludge

Q: A material that today would be considered PCB bulk product waste (e.g., wire fluff) was disposed of on the land many years ago. If this waste was remediated, would it be considered "PCB bulk product waste" or "bulk PCB remediation waste"?

A: If soil comes into contact and mixes with the waste, the waste is considered a bulk PCB remediation waste because it is waste containing PCBs as a result of an unauthorized disposal. If the waste has not become mixed with the soil, it is PCB bulk product waste.

Q: Does the definition of PCB remediation waste include contaminated concrete removed from a building?

A: Contaminated concrete that is removed from a building is PCB waste and is regulated for disposal. If the concrete was contaminated by a spill, release, or other unauthorized disposal of PCBs, it may be "PCB remediation waste" depending on the concentration of the PCBs and the date of the spill, release, or disposal. If the concrete was manufactured to contain PCBs, and at the time of designation for disposal contains PCBs $\geq$50 ppm, it is PCB bulk product waste.

Spill Cleanup Policy

Q: Is the Spill Cleanup Policy still in effect? Are the cleanup field manual and publication for cleanup still valid?

A: The Spill Cleanup Policy and all related guidance are still valid.

Q: Why must waste from a spill cleaned up under the Spill Cleanup Policy be managed in the same manner as the spilled material, while cleanup waste generated from §761.61 activities may be managed at its "as found" concentration?

A: The PCB Spill Cleanup Policy provides a presumption against enforcement penalties for the unauthorized disposal of the original spill, in exchange for quick and effective cleanup of the spill. If the waste resulting from the spill were regulated for disposal at its as-found concentration (as is PCB remediation waste), there would no disincentive for owners of PCBs to dilute them to less regulated or unregulated levels by spilling. Under §761.61, to create an incentive to clean up old spills, PCB remediation waste can be cleaned up at its as-found concentration. However, to provide a disincentive to "disposing" of the original source material by spilling it, a penalty for the original generation of the waste is possible. The potential penalty is not associated with the cleanup requirements.

Q: If I clean up a spill in accordance with the Spill Cleanup Policy, may I dispose of the waste in accordance with §761.61(a) without notification?

A: No. If the Spill Cleanup Policy is applicable and you choose to follow it, you must follow it in its entirety. If you choose instead to conduct a self-implementing cleanup under §761.61(a), you must comply with all the requirements of §761.61(a), including notification. As alternatives to self-implementing cleanup under §761.61(a), you may dispose of waste from the spill site in accordance with the options listed under §761.61(b), or you may apply to the EPA Regional Administrator for a risk-based disposal approval under §761.61(c).

Q: May I use the Spill Cleanup Policy to clean up an old spill (for example, at an abandoned building) if I act within 48 hours of discovering the spill?

A: No. The Spill Cleanup Policy was designed for quick and effective cleanup of fresh spills that have had a very limited time to migrate from the spill site or otherwise spread into the ambient environment. A quick and effective cleanup means a recovery of almost all of the spilled material based on visible traces. To meet the environmental cleanup objectives a spill has to be fresh, that is less than 72 hours old. For spills more than 72 hours old, refer to §761.61(a) for other self-implementing cleanup and disposal options.

Q: Does the owner/operator of PCB equipment have a regulatory obligation to test stains when there is no evidence of a spill or release?

A: There is no regulatory requirement that you sample the equipment or stains near the equipment for PCB contamination. However, you are responsible for properly disposing of the equipment and cleaning up and properly disposing of any contaminated surfaces or materials. When in doubt, EPA recommends that you sample.

Q: What sampling and testing methods must I use to assess staining visible on PCB equipment?

A: Use Subpart P to sample non-porous surfaces. For porous surfaces (including paint on metal), use Subpart P to determine a location for collecting a representative sample from the surface (for example, by scraping), and measure the bulk (as opposed to surface) PCB concentration in the sample.

Q: What are the disposal options for soils from a site where the self-implementing cleanup option in §761.61(a) will not be used?

A: You may request approval from the EPA Regional Administrator for a risk-based cleanup approval that includes disposal options for the soil, or you may remove all contaminated soil from the site and dispose of it accordance with any of the performance-based options in §761.61(b).

As-found concentration

Q: Section 761.61 states that PCB remediation waste must be managed and disposed of "based on the concentration at which the PCBs are found". What does this mean?

A: This means the concentration of the PCBs in the waste at the site at the time the waste is discovered, as opposed to the concentration of the PCBs in the material that was originally spilled, released, or otherwise disposed of at the site. For example, if dielectric fluid containing PCBs at $\geq$500 ppm was spilled onto soil, and testing revealed the PCB concentration of the soil to be <50 ppm, the soil would be managed as having a concentration of <50 ppm, not as having the concentration of the dielectric fluid that spilled. You may not dilute the as-found concentration of the contaminated soil by mixing it with clean soil during excavation or other management activities.

Q: ***Does "as found" mean in-situ, or can it refer to concentrations in stockpiles?***

A: "As found" refers to in-situ concentrations, or to stockpiles if the waste was already in place at the time of site investigation or characterization.

Q: ***Should PCB/radioactive remediation waste be characterized based on the source concentration or the as-found concentration?***

A: All types of remediation waste are regulated based on their as-found concentrations. Please review the above questions in this section on properly managing waste based on its "as-found" concentration.

Q: ***If I generate a stockpile of soil by excavating a spill site, what is the as-found concentration of the waste -- the concentration of PCBs in the ground prior to excavation, or the final concentration in the stockpile?***

A: The applicable concentration is the one found in the soil prior to excavation.

Q: ***How do I determine the concentration of multi-phasic PCB remediations waste such as sludges?***

A: Separate the multi-phasic waste and sample each phase separately. You may either disposed of each phase separately based on the as-found concentration in that phase, or dispose of the waste without separating it based on the highest as-found concentration of any phase.

Q: ***May I place PCB remediation waste in a tank system for storage prior to disposal, then determine the as-found concentration by taking a sample from each tank?***

A: No. You must determine the concentration at the time the waste is found at the site, not after it is removed and placed in the tank.

Q: ***May I use SW-846 Method 8082 or Method 8280 to analyze a non-aqueous phase organic liquid that is a PCB remediation waste (part of a groundwater removal, part of pump and treat process) for PCBs?***

A: Yes. These methods are acceptable for determining the PCB concentration in the waste prior to disposal.

§761.61(a) Self-implementing Cleanup and Disposal

Q: ***May I clean up fresh spills under the self-implementing option?***

A: Yes. Keep in mind that the self-implementing option requires site characterization and notification to the EPA Regional Administrator before cleanup begins. You may wish to

consider cleaning up a spill less than 72 hours old under the Spill Cleanup Policy instead.

Q: ***The rule says that EPA designed the self-implementing cleanup procedure for a moderately-sized site. What is a moderately-sized site?***

A: A moderately-sized site is approximately one acre. For larger sites and different sampling procedures, you may use a risk-based approval.

Q: ***I am cleaning up PCBs at a site according to requirements set by a county regulatory agency. Must I comply with the self-implementing cleanup requirements, such as notification and certification?***

A: Not necessarily. Self-implementing cleanup under §761.61(a) is only one option for disposing of PCB remediation waste. Other cleanup or disposal options include incineration, disposal in a chemical waste landfill, decontamination, coordinated approval, and risk-based disposal (see §761.61(b) and (c)). To be in compliance with TSCA §6(e), you must conduct your cleanup and dispose of your waste in accordance with one of these options. Where the self-implementing option is available and you choose to follow it, you must stop the cleanup and comply with all the requirements of §761.61(a), including notification and certification.

Q: ***If I started a PCB spill cleanup before August 28, 1998, may I use the self-implementing cleanup and disposal procedures to finish the job?***

A: Yes, as long as you develop an appropriate plan, provide the required notification, and follow the other requirements of §761.61(a).

§761.61(a)(1) Applicability

Q: ***May I use the self-implementing disposal option to clean up sewage sludge? What if the sewage sludge does not pass the TCLP?***

A: While you may not use the self-implementing disposal options to clean up sewers or sewage treatment systems, you may use it to clean up sewage sludge. (See §761.61(a)(1)(i)(C).) Clean up and dispose of the sewage sludge as bulk PCB remediation waste. The TCLP has no bearing on the self-implementing disposal of PCB remediation waste under §761.61(a). If the sewage sludge also includes RCRA-regulated components, you must dispose of the sewage sludge in a manner that complies with both TSCA and RCRA.

Q: ***How does the self-implementing option apply to sediments? Section 761.61(a)(1)(i) states that the self-implementing option may not be used to clean up sediments in marine and freshwater ecosystems. Section 761.61(a)(4)(i) states that bulk PCB remediation waste includes sediments and dredged materials.***

A: You may not use the self-implementing option to clean up sediments in marine and freshwater ecosystems, that is, sediments that are still in place in the environment. EPA intended that the self-implementing option be used only at sites where there is a low environmental impact from cleanup activities. You may use the self-implementing option to clean up sediments and other materials that have already been dredged. These materials would be regulated as bulk PCB remediation waste.

A sludge pond, lagoon, drainage ditch, or other former water impoundment that is isolated and does not support life may not be a "marine or freshwater ecosystem". Contact the EPA Regional Administrator for more information.

§761.61(a)(2) Site Characterization

Q: My company has been using the procedures in the documents "Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup" (EPA-560/5-86-017) and "Verification of PCB Spill Cleanup By Sampling and Analysis" (EPA-560/5-85-026) to determine the horizontal and vertical extent of PCB contamination before disposing of PCB-contaminated soils. Do the Disposal Amendments, particularly Subparts N and O, affect the way we should characterize the extent or degree of contamination in existing soil ≥1.0 ppm prior to its removal, or do they apply only after the soils have been removed and segregated for disposal?

A: If you wish to conduct a self-implementing cleanup under §761.61(a), you must characterize the cleanup site and provide to the Regional Administrator your proposed post-cleanup verification plan before site cleanup begins. Subpart N is provided as site characterization guidance (see §761.61(a)(3)). The two documents you mention were designed for small sites (approximately 20 feet in diameter) and are limited to a maximum of 37 samples. The Regional Administrator has the discretion to approve of site characterization in accordance with these documents for small sites. For larger sites, you may wish to consult the Regional Administrator before proposing the details of site characterization based on either of these two documents. The rules are more prescriptive as to post-cleanup verification -- you must follow Subpart O (see §761.61(a)(6)).

Q: Who defines the area that must be characterized? Must I sample and characterize my entire site if the source of PCB contamination is localized in one area?

A: You must characterize the cleanup site. The Disposal Amendments define "cleanup site" as "the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of a cleanup of PCB remediation waste, regardless of whether the site was intended for management of waste." Whether the cleanup site includes areas surrounding a localized source of PCB contamination depends on such factors as whether the PCB contamination could have been spread or carried beyond the localized area of contamination. You must describe the cleanup site in your notification to the EPA Regional Administrator under §761.61(a)(3). The Regional Administrator may approve or disapprove of your description of the site. Keep in mind

that if you do not accurately define the cleanup site and your cleanup fails to address all regulated contamination, further cleanup may be required.

Q: Extraction methods in Subpart N (§761.272) are for solid matrices. Did EPA intentionally not prescribe any methods for liquids?

A: The regulations do not prescribe a method for characterizing liquids. You may wish to confer with the EPA Regional Administrator prior to characterizing liquids at your site.

§761.61(a)(3) Notification

Q: Section 761.61(a) says that I may conduct self-implementing cleanup and disposal of PCB remediation waste without written approval from EPA, but §761.61(a)(3) states that I must notify EPA at least 30 days prior to the cleanup or disposal. Are these two statements contradictory?

A: No. Obtaining a written approval from EPA to engage in cleanup or disposal activities is generally a time-consuming process involving an individualized risk assessment. EPA has determined that self-implementing cleanup conducted in accordance with §761.61(a) will not pose an unreasonable risk, so individual approvals are not required. The pre-cleanup notification is intended to assure EPA that the person in charge of the cleanup or the owner of the site understands the self-implementing requirements and that the contamination at the site can effectively be cleaned through the self-implementing process. The notification process gives the Agency 30 days to review the proposed cleanup and request further information if necessary. If EPA does not respond within the 30 days, the cleanup may proceed without a written response from EPA.

Q: In the notification, does the owner have to summarize the entire site scope, or simply summarize the actual cleanup to be conducted?

A: Notification requires information on the nature of contamination, the procedures used to sample the site, the location and extent of the contaminated area, the cleanup plan for the site, and a certification that the information used to collect data is available on site. This information must describe the cleanup site, that is, the area that is contaminated with PCBs and all contiguous areas that must be included to implement the cleanup.

Q: When must the region respond to a notification?

A: Within 30 calendar days of the initial notification, the Regional Administrator will respond with an approval, a disapproval, or a request for additional information. If the Regional Administrator does not respond within 30 calendar days of receiving the notice, the person submitting it may assume that it is complete and acceptable and proceed with the cleanup as described in the notification. Where the person conducting the cleanup or the owner of the site notifies the Regional Administrator of changes in cleanup activities, regions will respond verbally within seven calendar days and in writing within 14 calendar days with an approval,

a disapproval, or a request for additional information. If the Regional Administrator does not respond within these time limits, the person submitting the change notice may assume that it is complete and acceptable and proceed with the cleanup as described in the change notice.

Q: Why must I notify the Regional Administrator before I conduct self-implementing cleanup of an old spill, but not before cleaning up a fresh spill under the Spill Clean-up Policy?

A: The Spill Clean-up Policy sets out procedures for cleaning up fresh spills from electrical equipment that EPA believes will be uniformly effective. Sites containing older contamination can vary greatly from site to site and not every site may be suitable for self-implementing cleanup. The notification process allows the EPA Regional Administrator to assure that the contamination at the site can effectively be cleaned through the self-implementing process.

§761.61(a)(4) Clean-up Levels

Q: What factors should a company consider in determining whether an area is a "low occupancy area"?

A: A "low occupancy area" is an area where PCB remediation waste has been disposed of and is based on the hours of occupancy per year of an unprotected individual. See the definition of this term at §761.3.

Q: Are there PCB concentrations or surface levels that would not be acceptable if a disposal site is unrestricted?

A: Yes. Section 761.61(a)(4) specifies the levels of PCB contamination that may remain at a site after cleanup, depending on the type of contaminated material (bulk PCB remediation waste, non-porous surfaces, porous surfaces, and liquids) and the potential exposure to PCBs at the site (high occupancy area or low occupancy area).

Q: Does a county regulatory agency have the authority to establish cleanup levels that are less stringent than the cleanup levels established in §761.61(a)(4)?

A: If you select the self-implementing option for cleaning up your site, you must clean to the levels in §761.61(a). The federal requirements under TSCA supersede less stringent state and local requirements.

§761.61(a)(4)(i) Bulk PCB remediation waste

Q: How does a facility establish the length of time an employee is in an area and whether the area is high or low occupancy? Is it based on a time sheet or an activity log?

A: The definitions of high and low occupancy are based on hours of exposure per year. A time

sheet or an activity log would be a way to demonstrate the time areas are occupied by certain employees. The time the area could be occupied by supervisors, itinerant workers (who do not have the area as a workstation but pass through the area), and non-employees (such as visitors, collaborators, contractors, and outside maintenance and installation employees) also has to be factored in, if relevant. A facility could also conduct a time and motion study. Keep in mind that if the use of your site changes to high occupancy, you must reclean the area to the standards specified for high occupancy areas. (See §761.61(a)(4)(v).)

Q: How does the difference between high and low occupancy apply to public lands?

A: In the same manner as it applies to any other area. Whether an area is high or low occupancy depends on hours of occupancy for an unprotected individual. However, the EPA Regional Administrator may require cleanup of the site to more stringent levels based on proximity to sensitive areas such as endangered species habitats, estuaries, wetlands, national parks, and fisheries. (See §761.61(a)(4)(vi).)

Q: Under §761.61(a)(4), would a stream contaminated with PCBs located on a large parcel of grassy property that also contained a school building be considered a "high occupancy area" by virtue of its association with the school, regardless of actual exposure to PCBs at the stream?

A: Whether an area is a “high occupancy area” or a “low occupancy area” is based on exposure at the location of on-site disposal. A cleanup in a school classroom would probably have to meet cleanup levels for a high occupancy area. It would probably be acceptable to meet low occupancy levels when cleaning up a school parking lot. The cleanup levels at §761.61(a)(4) would not be applicable to a stream or stream bank on school property or any other property because under §761.61(a)(1)(i)(A) and (B), the self-implementing procedures may not be used to clean up surface waters or sediments. Contact the EPA Regional Administrator for information specific to your cleanup site.

Q: For bulk PCB remediation waste, what type of protection is required in low occupancy areas?

A: Bulk PCB remediation waste at levels >25 ppm but ≤50 ppm may remain at a low occupancy area if the area is secured with a fence and marked. Bulk PCB remediation waste at levels >25 ppm but ≤100 ppm may remain at a site if the site is capped.

Q: If I leave soil containing PCBs <1 ppm on site, is the soil unregulated for disposal?

A: Yes. Soil containing <1 ppm PCBs is unregulated for disposal under TSCA whether you leave it on-site or remove it from the site.

§761.61(a)(4)(iii) Porous surfaces

Q: Do the cleanup levels for soil apply to concrete?

A: Yes. The cleanup levels for bulk PCB remediation waste (such as soil) and for porous surfaces (such as concrete) are the same.

Q: If I use scarification to conduct a self-implementing cleanup of concrete (e.g., a concrete pad) under §761.61(a), and I clean to the levels specified in §761.61(a)(4)(iii) for porous surfaces, must I still comply with the requirements of §761.30(p) before I may use the concrete?

A: No. If you clean to the levels specified for self-implementing cleanup, the PCBs are considered disposed of. The requirements for continued use of a contaminated porous surface do not apply because the surface is no longer contaminated.

Q: My site contains porous surfaces that were contaminated with ≥50 ppm liquid PCBs after April 18, 1978. If I conduct a self-implementing cleanup under §761.61(a) and clean the surfaces to the standards in §761.61(a)(4)(i), are use and distribution in commerce of the surfaces regulated? Does it matter how long ago the spill occurred?

A: Cleanup in accordance with §761.61(a), to the standards specified in §761.61(a)(4), constitutes disposal of the PCBs. Once you have disposed of the PCBs at the site by conducting a self-implementing cleanup, under TSCA you may use the site or distribute it in commerce without restriction. You may conduct a self-implementing cleanup of a porous surface at any time, no matter how much time has elapsed between the time of the contamination and the initiation of cleanup.

Q: If I dispose of contaminated concrete in accordance with §761.61(a)(4)(iii), may I continue to use and/or sell the property without any further restrictions?

A: Yes. As long as the property meets the requirements for high occupancy areas or low occupancy areas set out in §761.61(a)(4)(i) (including caps, fences, marking, and deed restrictions), no further requirements for use or distribution in commerce apply.

Q: May I leave PCBs in drainage pipelines or in concrete at levels exceeding the standards in §761.61(a)(4)?

A: If you are conducting a self-implementing cleanup, you must clean to the specified levels. You may request a risk-based approval under §761.61(c) to clean to different levels.

§761.61(a)(4)(v) Change in land use for a cleanup site

Q: If the use of a site cleaned up under the self-implementing option changes from low occupancy to high occupancy, the regulations require the owner to clean up the site to high occupancy standards. Must I contact EPA before starting the cleanup?

A: It depends on how you conduct the cleanup. You must use one of the options in §761.61. If you choose the self-implementing option under §761.61(a), you must notify the EPA

Regional Administrator before starting the cleanup. If you choose the risk-based option under §761.61(c), you must get an EPA approval before starting the cleanup.

Q: ***§761.61(a)(4)(vi) states that EPA can require more stringent cleanup levels in an area that is in proximity to sensitive areas such as residential dwellings, hospitals, schools, and nursing homes. How close does the sensitive area have to be to the cleanup area to justify a more stringent cleanup level?***

A: The EPA Regional Administrator may require more stringent cleanup levels if he or she determines this is necessary to protect against an unreasonable risk of injury to health or the environment in the sensitive area. This determination would be made on a case-by-case basis taking into account the factors at each site.

§761.61(a)(5) Site Cleanup

§761.61(a)(5)(i) Bulk PCB remediation waste

Q: ***Please clarify §761.61(a)(5)(i)(A). It states that "any person cleaning up bulk PCB remediation waste on-site using a soil washing process may do so without EPA approval." Is this referring to techniques allowed under §761.79(b)?***

A: No. You may conduct any soil-washing process without prior EPA approval as long as the process meets the requirements of §761.61(a)(5)(i)(A)(*1*) through (*6*).

Q: ***My site contains large areas of contaminated soil. As part of a self-implementing cleanup, I plan to have the soil bulldozed into piles prior to removing it from the site for disposal. When should I sample the soil – before it is bulldozed or after?***

A: You must sample the soil before it is bulldozed into piles. The soil is PCB remediation waste and it is regulated at its as-found concentration. Bulldozing the soil into piles is likely to mix the contaminated soil with underlying, uncontaminated soil, diluting the PCB concentration.

Q: ***I want to use the self-implementing option to clean up a site at which PCB remediation waste (contaminated soil) is stored in piles. How must I sample the soil for disposal?***

A: Before beginning your cleanup, you must characterize the site (see §761.61(a)(2).) The rules do not require any particular characterization method, but when you notify the EPA Regional Administrator under §761.61(a)(3) that you plan to use the self-implementing option, you must include in the notification a summary of the characterization process. Subpart R sets out a method for sampling PCB remediation waste in piles. If you find PCB remediation waste in piles at your cleanup site prior to site characterization, you may include in your notification to the EPA Regional Administrator that you plan to sample the piles according to Subpart R. If you generated these piles during prior cleanups or excavations not approved by EPA, you may be subject to penalties for dilution to avoid disposal requirements.

Q: ***Once a facility has treated contaminated soil to PCB concentrations of <50 ppm, is the waste unregulated for disposal? Can it be sent to a solid waste disposal facility?***

A: The soil is regulated for disposal if the PCB concentration is ≥1 ppm. The disposal options for soil <50 ppm, set out in §761.61(a)(5)(v)(A), include a state-approved municipal or non-municipal non-hazardous waste landfill.

Q: ***Why do the requirements for the disposal of soil containing PCB concentrations of <50 ppm in §761.61(a)(5)(i)(B)(2)(ii) refer to a section containing requirements for the disposal of non-liquid cleaning materials and personal protective equipment waste (§761.61(a)(5)(v)(A))? Are all bulk PCB remediation wastes with PCB concentrations of < 50 ppm required to comply with §761.61(a)(5)(v)(A), or only the non-liquid cleaning materials and personal protective equipment waste?***

A: The disposal options are the same for bulk PCB remediation waste (including soil) at <50 ppm PCBs as they are for non-liquid cleaning materials and personal protective equipment waste: a facility permitted licensed, or registered by a State to manage municipal solid waste or non-municipal, non-hazardous waste; a hazardous waste landfill permitted under Subtitle C of RCRA; or an approved PCB disposal facility.

Q: * * * ***Under the self-implementing cleanup provisions, if a transformer leaks and testing shows the soil has PCB concentrations <50 ppm but the oil contains PCB concentrations ≥50 ppm, may I dispose of the soil in a Subtitle D landfill?***

A: Dispose of PCB remediation waste based on its as-found concentration. If testing reveals the level of contamination in the soil to be <50 ppm, despite the concentration of the original spill, and you are conducting a self-implementing cleanup in accordance with the requirements of §761.61(a) (including notification to the EPA Regional Administrator), you may dispose of the soil in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill. (See §761.61(a)(5)(i)(B)(*2*)(*ii*).) You must notify the landfill in writing of the amount and concentration of the waste at least 15 days prior to the first shipment. * * *

Q: ***Must I manifest bulk PCB remediation waste <50 ppm PCBs to a municipal solid waste landfill?***

A: No. (See §761.61(a)(5)(i)(A).) Keep in mind that when conducting a self-implementing cleanup you must notify the EPA Regional Administrator under §761.61(a)(3) and you may not dilute the waste as found at the site to concentrations <50 ppm by excavating or other management practices that result in dilution of the PCBs.

Q: ***May I dispose of bulk PCB remediation waste with PCB concentrations <50 ppm by land application at another site, such as under an asphalt roadbed?***

A: PCB remediation waste ≥1 ppm is regulated for disposal. Off-site land application is not a

disposal option for waste generated as part of a self-implementing cleanup under §761.61(a). You may apply for a risk-based disposal approval under §761.61(c) for disposal by off-site land application.

Q: ***Does the requirement in §761.61(a)(5)(i)(B)(2)(iv) to notify landfills apply to PCB waste at concentrations <50 ppm sent to a municipal solid waste landfill?***

A: Yes. The notice applies in lieu of a manifest for waste destined for disposal in any area not subject to a TSCA PCB Disposal Approval.

Q: ***What are the off-site disposal requirements for bulk PCB remediation waste with PCB concentrations ≥50 ppm? At concentrations ≥500 pm?***

A: You must dispose of bulk PCB remediation waste at any concentration that is ≥50 ppm in a hazardous waste landfill permitted by EPA under section 3004 of RCRA or by a State authorized under section 3006 of RCRA, or in an approved PCB disposal facility. (See §761.61(a)(5)(i)(B)(*2*)(*iii*).)

Q: ***Must I manifest PCB remediation waste ≥50 ppm to a RCRA landfill?***

A: Yes.

§761.61(a)(5)(ii) Non-porous surfaces

Q: ***Section 761.61(a)(5)(ii)(B)(1) allows non-porous surfaces having surface concentrations <100 µg/100 cm^2 to be disposed of off-site in the same manner as bulk PCB remediation wastes with PCB concentrations <50 ppm, for example, in a facility permitted, licensed, or registered by a State to manage municipal solid waste subject to §258, or non-municipal non-hazardous waste subject to §§257.5 through 257.30. Is this correct, or should the reference be to non-porous surfaces having surface concentrations <10 µg/100 cm^2?***

A: The reference as published is correct. drained PCB-contaminated electrical equipment and drained PCB-contaminated articles may be land disposed in a facility that is permitted, licensed, or registered by a State to manage municipal solid waste subject to 40 CFR part 258, or non-municipal non-hazardous waste subject to 40 CFR §§257.5 through 257.30. (See §761.60(b)(4)(i)(A) and §761.60(b)(6)(ii)(B), respectively.) The definition of "PCB-contaminated" includes non-porous surfaces with surface concentrations <100 µg/100 cm^2. It is consistent to provide for the same disposal option for surfaces having the same PCB surface concentration whether those surfaces are present in drained PCB-contaminated electrical equipment and articles or any other non-porous surface.

§761.61(a)(5)(iii) Porous surfaces

Q: ***May I clean and re-use a concrete slab with an average surface PCB contamination of 65***

µg/100 cm^2? Must I sample and test the subsurface of contaminated concrete?

A: You may decontaminate the porous surface in accordance with §761.79(b)(4) if you begin decontamination within 72 hours of the initial spill to the concrete. This decontamination procedure does not require you to sample and test the subsurface concrete. You may reuse the concrete after decontaminating it under this provision.

There are two options for older spills to porous surfaces. You may remove the contaminated concrete to the levels specified in §761.61(a)(5)(i). Under this option, you must sample and test the subsurface concrete until all concrete at concentrations higher than the specified levels is removed. Alternatively, you may continue to use the porous surface for the remainder of its useful life if you comply with the use conditions of §761.30(p). When the surface's useful life has ended you must dispose of it as PCB remediation waste.

Q: If core sampling and testing show that the PCB concentration of contaminated concrete is <50 ppm, may I disposed of the concrete in a solid waste landfill?

A: Yes, if you are using the self-implementing disposal option under §761.61(a) (including notification to the EPA Regional Administrator). Disposal options for porous surfaces are the same as those for bulk PCB remediation waste. You must notify the landfill of the quantity and concentration of the waste at least 15 days prior to the first shipment.

§761.61(a)(5)(iv) Liquids

Q: Sludge at PCB concentrations ≥500 ppm was centrifuged and the soil was disposed of in an incinerator. The remaining water had measured PCB concentrations of <1 ppm. Can this water be solidified and disposed of in a TSCA landfill without being considered a "dilution process" or should it be incinerated?

A: Disposal options for the water include decontamination to the levels set in §761.79(b)(1) and incineration or other combustion in accordance with §761.60(a), depending on the concentration. You may not process liquid PCBs into non-liquid forms to circumvent the high temperature incineration requirements of §761.60(a) (see §761.50(a)(2)).

§761.61(a)(5)(v) Cleanup wastes

Q: Under §761.61(a)(5)(v)(A), may I dispose of personal protective equipment and non-liquid cleaning materials that are contaminated with PCBs in an incinerator permitted under RCRA?

A: Not unless the incinerator is also permitted under TSCA.

Q: Under §761.61(a)(5)(v)(A), must I notify a municipal waste landfill before sending cleanup waste?

A: No. No notice is required and this waste is not subject to manifesting.

Q: Is cleanup waste under §761.61(a)(5)(v) subject to storage and marking requirements?

A: Yes. EPA has not waived storage and marking requirements for this waste. If the PCB concentration of the waste is ≥50 ppm, you must store it in accordance with §761.65. Depending on the type of waste, marking requirements may apply (see §761.40).

§761.61(a)(6) Cleanup Verification

Q: May I use a field screening test to verify cleanup?

A: Sampling and analysis verification of self-implementing cleanup must be done in accordance with subpart O (see §761.61(a)(6)). Subpart O does not include use of field screening kits. However, you may use a method not specified in subpart O if you validate the method under subpart Q (see §761.292).

§761.61(a)(7) Cap Requirements

Q: The cap requirements for self-implementing cleanup sites at §761.61(a)(7) state, "repairs shall begin within 72 hours of discovery for any breaches that would impair the integrity of the cap." Does this imply an inspection requirement for caps?

A: There is no inspection requirement specified in the regulations, but the owner or operator of the site is responsible for ensuring that the cap is maintained in accordance with the regulations.

Q: Do the performance criteria for caps apply to both solid caps, such as asphalt and concrete, and to soil caps?

A: Yes. The performance criteria are necessary to ensure that the cap maintains its integrity and prevents release of or exposure to PCBs at the site.

§761.61(a)(9) Recordkeeping

Q: If I porous surfaces are demolished, fenced and/or capped and left on-site as part of a self-implementing cleanup under §761.61(a), is that facility a "disposer" for purposes of recordkeeping and reporting?

A: You must keep records of the cleanup in accordance with §761.125(c)(5). However, for waste left on-site, you do not need to comply with the reporting and recordkeeping requirements applicable to disposers of PCB waste. Those requirements apply to facilities with an EPA approval to dispose of PCB waste.

§761.61(b) Performance-based disposal

Q: ***Section 761.61(b) refers to liquid PCB remediation wastes. What types of liquids are covered by this reference?***

A: Examples of liquids that might be found at a remediation site include liquids that are found in buried containers or run-off that has accumulated in impoundments.

Q: ***If I am removing soil from a site for off-site disposal in a §761.61(b) facility, must I remove soil that is <50 ppm?***

A: PCB remediation waste may be regulated for disposal at PCB concentrations <50 ppm. Section 761.61(b) only addresses disposal of waste. Section 761.61(b) does not require removal of PCB remediation waste at any specified concentration nor does this paragraph provide for procedures to demonstrate that cleanup at a site is complete . To be completely unregulated for disposal off-site without an approval from EPA, waste must contain <1 ppm, and that concentration must not be the result of dilution during remediation (i.e., by mixing with clean soil during excavation).

§761.61 (c) Risk-based disposal approval

Q: ***On what factors are risk-based approvals based?***

A: Whether to grant a risk-based approval is in the discretion of EPA. EPA may grant such an approval based on a finding that the sampling, cleanup, disposal, or storage method will not pose an unreasonable risk of injury to health or the environment. The regulations do not specify what criteria EPA must consider in making this finding.

Q: ***Under §761.61(c), does EPA allow alternative site characterization, cleanup levels, and verification sampling?***

A: The regulations authorize EPA to grant risk-based approvals for sampling, cleanup, disposal or storage. Site characterization, cleanup levels, and verification sampling fall within the activities that can be included in a risk-based approval.

Q: ***If a specific risk-based approval is granted, is it then nationalized across all facilities?***

A: No, technologies or methods in individual risk-based approvals will not automatically be applicable nationwide. To request a risk-based approval for sampling, cleanup, disposal or storage occurring in a single EPA Region, apply in writing to the EPA Regional Administrator in the Region where the sampling, cleanup, disposal or storage site is located. To request a risk-based approval for sampling, cleanup, disposal or storage occurring in more than one EPA Region, apply to the Director of the National Program Chemicals Division.

Q: ***How long will it take EPA to review applications submitted under §761.61(c)?***

A: Since each risk-based approval must be based on an individual risk assessment for the site, this will depend on the circumstances at the site. EPA recommends that you plan to allow at least 180 days for this process.

§761.62 Disposal of PCB Bulk Product Waste

§761.3 Definition of PCB bulk product waste

Q: Is paint residue taken off a large metal structure considered a bulk product waste?

A: Yes. Applied dried paint is PCB bulk product waste whether or not it is removed from the original surface.

Q: Are fluorescent light ballasts regulated as PCB bulk product waste?

A: If the PCB concentration of the potting material is <50 ppm and the ballast contains either no PCB small capacitor or an intact and non-leaking PCB small capacitor, you can dispose of the ballast as municipal solid waste (see §761.60(b)(2)(ii)). If the PCB concentration of the potting material is ≥50 ppm and the ballast contains either no PCB small capacitor or an intact and non-leaking PCB small capacitor, you can dispose of the ballast as PCB bulk product waste in a TSCA incinerator, a TSCA/RCRA landfill, a facility permitted, licensed, or registered by a state as a municipal or non-municipal non-hazardous waste landfill, or by means of an approved destruction method, decontamination, or risk-based disposal method (see §761.60(b)(iii)). Regardless of the PCB concentration of the potting material, you must dispose of ballasts containing non-intact or leaking capacitors as PCB bulk product waste in accordance with §761.62(a) or (c).

Q: The definition of PCB bulk product waste states that such waste "includes, but is not limited to" several specific types of materials. If the actual PCB content of a given batch of one of the listed materials is <50 ppm (or even 0 ppm), must the material be disposed of as a PCB bulk product waste solely because it is listed in the definition? For example, must all plastics or all paper automatically be disposed of as PCB bulk product wastes simply because plastics and paper are listed in the definition?

A: No. The materials included in the definition of PCB bulk product waste are regulated as such only if their PCB concentration at the time of designation for disposal is ≥50 ppm.

Q: What does the phrase "concentration at the time of designation for disposal" mean in the definition of "PCB bulk product waste?"

A: This means the concentration of the PCBs in the manufactured product at the time it is determined that the product is a waste and before it is mixed with other materials. For example, the concentration at the time of designation for disposal of dried wall paint containing PCBs in a building being demolished would be the concentration of the paint itself prior to demolition, not mixed or diluted with waste from the underlying wall or other debris

from the building.

Q: ***Does this definition include contaminated concrete removed from a building for which the use changes, but there is no demolition?***

A: Contaminated concrete that is removed from a building is PCB waste and is regulated for disposal, regardless of whether the building itself is demolished or reused. If the concrete was contaminated by a spill, release, or other unauthorized disposal of PCB liquids, it may be PCB remediation waste depending on the concentration of the PCBs and the date of the spill, release, or disposal. If the concrete contains or is coated with a material that was manufactured to contain PCBs, and at the time of designation for disposal contains PCBs $\geq$50 ppm, it is PCB bulk product waste.

Q: ***Is the definition of "PCB bulk product waste" intended to focus on individual PCB-contaminated units or a larger amount/pile of PCB-contaminated waste?***

A: Both. The definition of "PCB bulk product waste" applies to waste derived from manufactured products containing PCBs in a non-liquid state. The definition would include a single plastic casing from a television as well as a pile or other accumulation of building demolition debris.

Q: ***I have a site where wire fluff, a material that today would be considered PCB bulk product waste, was disposed of on the land many years ago. If I remove the wire fluff for off-site disposal, would it be regulated as "PCB bulk product waste" or "bulk PCB remediation waste"?***

A: If soil comes into contact and mixes with the wire fluff, the wire fluff is considered a bulk PCB remediation waste because it is waste containing PCBs as a result of an unauthorized disposal. If the wire fluff has not become mixed with the soil, for example, fluff that was stored in piles on a liner or other barrier, it is PCB bulk product waste.

Q: ***Are residues from electrical transformers PCB bulk product waste?***

A: No. You must dispose of the non-liquid residues removed from electrical transformers as liquid PCBs.

Q: ***Some scrappers may shred autos and white goods and remove ferrous metal using electromagnets. The remaining primary shredder residue may be disposed of as is, or undergo further processing to recover non-ferrous metals at the same facility or another facility. Is metal recovered from shredder fluff by eddy current separation a PCB bulk product waste?***

A: Yes, if the metal is contaminated by PCBs that were $\geq$50 ppm in the feed material. The definition of "PCB bulk product waste" at §761.3 includes "PCB-containing wastes from the shredding of automobiles, household appliances, or industrial appliances."

Q: ***A plant processes metal shredding residue (fluff) to recover aluminum. The particulate control system includes a baghouse which generates a dust material containing ≥50 ppm PCBs. Is this baghouse dust a PCB bulk product waste subject to §761.62 disposal standards?***

A: Yes. The dust is PCB bulk product waste.

General

Q: ***Why did EPA establish a new waste category and new disposal methods for PCB bulk product waste?***

A: Before the Disposal Amendments were promulgated, large volume, non-liquid PCB wastes such as wastes from the shredding of automobiles, white goods, and industrial scrap had to be disposed of in an incinerator, a chemical waste landfill, or under an alternate disposal approval. EPA believed there were other disposal methods and waste management techniques for this waste that would facilitate its disposal without posing an unreasonable risk.

Q: ***Section 761.62 seems to say that any material or unit that could possibly contain PCBs should be sampled and tested for PCB content. Is it the Agency's intention to require this type of search for PCBs?***

A: The PCB regulations do not expressly require you to test a material for PCB contamination. However, you are responsible for properly disposing of regulated PCBs. If you are in doubt about whether a material contains PCBs, EPA recommends that you test it.

Q: ***If bulk product waste is radiologically contaminated, can the waste be disposed of in a landfill used for the disposal of radiologically contaminated waste even though the state does not license, register, or permit landfills used for disposal of these materials?***

A: In accordance with §761.50(b)(7)(ii), any person disposing of PCB/radioactive waste must do so taking into account both its PCB concentration and its radioactive properties. If, taking into account only the properties of the PCBs in the waste (and not the radioactive properties of the waste), the waste meets the requirements for disposal in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill (e.g., PCB bulk product waste under Sec. 761.62(b)(1)), then the person may dispose of the PCB/radioactive waste, without regard to the PCB component of the waste, on the basis of its radioactive properties in accordance with all applicable requirements for the radioactive component of the waste. The facility that accepts the PCB/radioactive bulk product waste must be operating under a valid permit, but the permit does not have to have been issued by the state.

Q: ***Does EPA have any data on any potentially hazardous by-products associated with***

cutting painted metal surfaces with a flame?

A: Studies have shown that open burning of liquid PCBs, even at low concentrations, results in the formation of polychlorinated dibenzofurans. These compounds are probable human carcinogens and their toxicity can be up to 100 times higher than the toxicity of some PCBs. There is no reason to believe that polychlorinated dibenzofurans would not form during cutting painted metals with a flame, which would normally occur at temperatures within the range included in the studies.

Q: Is it correct that dermal protection is required for handling PCB Articles, but not for handling PCB bulk product waste?

A: That is correct. There are no specific references to dermal protection in §761.62 because the PCBs in bulk product waste are tightly bound within the matrix of the waste and are unlikely to result in dermal exposure.

Q: Is PCB bulk product waste subject to the storage requirements in §761.65?

A: Yes. Note the additional option for temporary storage of PCB bulk product waste in piles under §761.65(c)(9).

Shredder waste

Q: A scrap dealer shreds vehicles, etc., and produces shredder fluff. Grab samples show that PCBs are present in the fluff at concentrations <50 ppm. The source of the PCBs is not known. Is this waste a PCB bulk product waste?

A: PCB bulk product waste is regulated for disposal if the concentration at the time of designation for disposal was ≥50 ppm PCBs. This means that if the shredder feedstock contained any material with a PCB concentration ≥50 ppm, the resulting fluff is regulated no matter what its concentration. If you are unable to establish that the PCBs in the fluff came from a source other than ≥50 ppm feedstock, your fluff is regulated as PCB bulk product waste.

Q: How can a facility establish that PCB contamination in fluff is not derived from feedstock materials containing PCBs ≥50 ppm?

A: By carefully screening or sampling the feedstock.

Q: While automobile and appliance shredder fluff may be handled under §761.62 (bulk product waste), there is no allowance for capacitors in this type of waste stream. Therefore, is shredder fluff containing shredded capacitors regulated under §761.62(a) or (c), as stated in the preamble, or as PCB remediation waste because it is contaminated with liquid released from the ruptured capacitor?

A: Fluff containing shredded capacitors is regulated as PCB bulk product waste under §761.62(a) or (c). PCB remediation waste is regulated based on its as-found concentration. Allowing fluff contaminated by shredded capacitors to be disposed of at its as-found concentration would not create an incentive to remove the capacitors prior to shredding. In addition, it would require that each batch of fluff be tested for PCB concentration prior to disposal.

Q: ***What are the procedures for dealing with shredder fluff when it is unclear that capacitors were removed? Some municipal collection programs process or crush the waste before it is forwarded to a shredder; therefore, the shredding facility has no way of knowing whether the PCB small capacitor was removed. May the shredder still take advantage of §761.62(b) if there is no way to verify that the PCB small capacitor was removed? Would 761.62(c) be an available alternative for the shredder when verification of the removal of PCB small capacitors is not possible?***

A: If the fluff contains PCBs and you cannot establish that all capacitors were removed prior to shredding, the fluff is regulated as PCB bulk product waste and must be disposed of in accordance with §761.62(a) or (c). You may not dispose of the fluff under §761.62(b)(1)(i), because that section requires that all capacitors be removed from the fluff. You may not dispose of the fluff under §761.62(b)(1)(ii) or §761.62(b)(2), because this would create a disincentive to remove the capacitors and would result in the dilution of the liquid PCBs.

Q: ***Is the metal that results from the shredding of automobiles and appliances regulated for disposal as PCB bulk product waste?***

A: If PCBs in the feed material are at <50 ppm (and are not the result of dilution or a spill), then the metal and the non-metal waste streams from the shredder are not regulated for disposal. If any PCBs $\geq$50 ppm are present in the feed material, then all of the shredded material, including metal, is regulated for disposal, regardless of the PCB concentration in accumulations of any of the component parts of the waste.

Metal contaminated with PCBs at concentrations <500 ppm may be decontaminated in a smelter operating in accordance with §761.72(b) (see §761.79(c)(6)(i)) . And finally, metal contaminated with PCBs at concentration $\geq$500 ppm may be decontaminated in a smelter operating in accordance with §761.72(b), but first must be decontaminated in a scrap metal recovery oven in accordance with §761.72(a) or to a surface concentration of <100 μg/100 cm² (see §761.79(c)(6)(ii)).

Q: ***May shredder residue containing PCBs be disposed of in a cement kiln? The TSCA regulations already allow disposing of PCB wastes with even higher PCB concentrations in boilers and smelters. Disposal of shredder residue containing PCBs should be allowed in an industrial furnace that has demonstrated removal efficiencies for PCBs and that can handle large volumes of material. The fact that the shredder residue has value as fuel should not distract from the fact that the PCBs are at the end of their useful life and are being disposed of.***

A: Shredder residue, which meets the definition of PCB bulk product waste, is regulated for disposal at §761.62. Specified disposal options in paragraphs (a) and (b) of this section do not include a cement kiln. However, disposal in a cement kiln may be approved by the EPA Regional Administrator as an option under risk-based disposal at §761.62(c).

Q: In my state, PCB small capacitors are required to be removed prior to sending items to a recycler for shredding. May such a source control program constitute compliance with the requirement to remove all capacitors? What constitutes an effective program of screening waste going to a white goods shredder for small capacitors?

A: You may submit to EPA a request for an approval of a source control program as a risk-based disposal option under §761.62(c). The request should describe the source control program in detail, including the steps a facility would use to remove or verify removal of capacitors or other sources of PCBs; results of a pilot study verifying that the waste generated when the program is used does not pose an unreasonable risk to health or the environment, including underlying data; and a method for each facility relying on the program to identify itself to EPA and to identify the individual responsible for the facility's administration of and compliance with the source control program.

Sampling

Q: Section 761.62(b)(1)(ii) sets out land disposal options for non-liquid PCB bulk product waste sampled in accordance with subpart R that leaches <10 μg/L. Subpart R describes a sampling protocol for non-liquid, non-metal PCBs. How do I sample metal PCB bulk product waste?

A: Subpart P establishes a sampling protocol for non-porous surfaces, including metal. Section 761.62(b)(1) does not refer to subpart P because EPA anticipated that most metal from shredded PCB bulk product waste would be smelted or otherwise recovered rather than being disposed of in a landfill. You may apply to the EPA Regional Administrator for a risk-based sampling method under §761.62(c) for any sampling activities involving PCB bulk product waste that are not directly addressed in the regulations.

Q: A utility wishes to determine whether cable contains a PCB concentration $\geq$50 ppm for the purpose of disposal. Must the utility follow Subpart R to determine whether the cable contains $\geq$50 ppm PCBs, or may the utility use another method of its own choosing?

A: The utility may apply to the EPA Regional Administrator for a risk-based sampling method under §761.62(c) for any sampling activities involving PCB bulk product waste that are not directly addressed in the regulations.

Q: Many municipal waste landfills will not accept materials that contain a PCB concentration over 10 ppm. Must I sample to determine the PCB concentration of all demolition waste before sending it to the municipal waste landfill?

A: The Disposal Amendments require only that the landfill be notified that the PCB bulk product waste may contain components containing PCBs at ≥50 ppm, and that the leaching characteristics also be included in the notice. The PCB regulations do not specifically require sampling. A particular landfill may be subject to other regulations or requirements, including PCB concentration limits.

§761.62(a) Performance-based disposal

Q: Must I manifest PCB bulk product waste disposed of under §761.62(a)?

A: Yes.

§761.62(b) Disposal in Solid Waste Landfills

Q: What PCB bulk product waste may I dispose of in a state-approved municipal or non-municipal non-hazardous waste landfill?

A: The Disposal Amendments identify specific types of PCB bulk product waste, such as plastics, rubber, and building demolition debris, that you may dispose of in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill. In addition, you may dispose of other wastes which leach PCBs at <10 μg/L in this type of facility. You may dispose of PCB bulk product waste not meeting these criteria, such as paper or felt gaskets contaminated by liquid PCBs, in a municipal or non-municipal non-hazardous waste landfill that segregates the PCB bulk product waste from organic liquids disposed of in the landfill and collect the landfill leachate and monitors it for PCBs. See §761.62(b)(1) and (2) for more details.

Q: Is pipe coated with coal tar enamel covered under §761.62(b)(1)(i)? What about loose coal tar enamel that has been removed from piping?

A: The Disposal Amendments do not specifically identify these as materials that you may dispose of in a facility permitted, licensed, or registered by a state as a municipal or non-municipal non-hazardous waste landfill. However, you may dispose of these materials in this type of facility if a leach simulation test shows that they leach PCBs at <10 μg / L. If the materials leach ≥10 μg/L, you may dispose of them in a municipal or non-municipal non-hazardous waste landfill that segregates the PCB bulk product waste from organic liquids disposed of in the landfill and collects the landfill leachate and monitors it for PCBs, or in accordance with §761.62(a) or (c).

Q: What type of auto shredder waste may I dispose of in a state-approved municipal or non-municipal hazardous waste landfill?

A: You may dispose of non-liquid PCB bulk product waste from the shredding of automobiles or household appliances (fluff) from which PCB small capacitors have been removed in a municipal or non-municipal non-hazardous waste landfill. You must dispose of fluff from

which the PCB small capacitors have not been removed in accordance with §761.62(a) or (c).

Q: ***One of the conditions for landfilling PCB bulk product waste is that any release from the landfill must be cleaned up as PCB remediation waste (see §761.62(b)(i)(3)). What is meant by "any release from the landfill"?***

A: "Any release from the landfill" refers to any release that contains PCBs, such as a release to groundwater through leaching, or soil contamination of adjacent areas where waste is blown from the landfill.

Q: ***I have construction debris that includes materials that may be disposed of in a municipal or non-municipal non-hazardous waste landfill under §761.62(b)(1) and materials that must be disposed of in a landfill with leachate collection under §761.62(b)(2). Must I separate these materials for disposal?***

A: You must either separate the materials or dispose of all of them in a landfill with waste segregation and leachate collection under §761.761.62(b)(2).

Q: ***The regulations say that when I dispose of PCB bulk product waste in a facility permitted, licensed, or registered by a State to manage municipal solid waste or non-municipal non-hazardous waste, I must notify the facility that the waste contains ≥50 ppm PCBs. Must I test all the PCB bulk product waste I dispose of, or may I test a representative sample?***

A: It is not always necessary to determine the PCB concentration or leaching characteristics of PCB bulk product waste. For example, under §761.62(b)(1)(i), you may dispose of certain PCB bulk product waste in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill regardless of its PCB concentration. Under §761.62(b)(4), you must notify the disposal facility that the waste may contain PCBs ≥50 ppm, but you may do so based on application of a general knowledge of the waste stream or similar material. If you cannot base the §761.62(b)(4) notice on general knowledge of the PCB concentration of the waste, you must test the waste. You may do so by taking a representative sample of the waste following Subpart R. That subpart describes how to select and analyze a sample of non-liquid, non-metal PCB bulk product waste, either from existing accumulations (such as piles of shredder fluff or demolition debris) or from processes that continuously generate new waste. Alternatively, you may request approval under §761.62(c) of another sampling method.

Q: ***Is leach testing required to show that the PCB do not leach < 10ug/l or can this be presumed?***

A: This can be presumed only for the materials specifically identified in §761.62(b)(1). Otherwise, leach testing is required.

Q: ***What is a leach simulation test mentioned in §761.62(b)(1)(ii)? Is this the same as the***

TCLP? What guidance is there on conducting the leach testing to demonstrate < 10 μg/L ?

A: A leach simulation test is a type of test that simulates what would happen when a waste is placed in a landfill. You may use the TCLP to stimulate leachate generation, or any test that simulates leaching under your disposal conditions and that generates reproducible results.

Q: When do I have to notify an off-site disposal facility that I am disposing of PCB bulk product waste? Must I notify for every shipment of waste from a demolition project if it is always the same type of material (e.g., painted concrete and metal or cable)?

A: When you dispose of PCB bulk product waste in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill under §761.62(b)(1), and that facility does not have a commercial PCB storage or disposal approval, you must notify the facility a minimum of 15 days in advance of the first shipment from the same disposal waste stream. When you dispose of PCB bulk product waste in a municipal or non-municipal non-hazardous waste landfill that segregates the PCB bulk product waste from organic liquids disposed of in the landfill, and collects the landfill leachate and monitors it for PCBs under §761.62(b)(2), and that facility does not have a commercial PCB storage or disposal approval, you must notify the facility a minimum of 15 days in advance of the first shipment from the same disposal waste stream and with each shipment thereafter.

Q: What is meant by "the same disposal waste stream"?

A: A disposal waste stream remains the same as long as the source or origin of the waste remains unchanged. For example, demolition waste from a single demolition project that is delivered to the disposal facility in more than one load is waste from the same disposal waste stream. Waste from a different demolition project is not from the same disposal waste stream. For a shredding operation, the waste stream from automobiles is not the same as the waste stream from plastic-insulated electrical cables or from household appliances.

Q: Who must I notify when I dispose of radioactive PCB bulk product waste?

A: The requirements are the same as for PCB bulk product waste without a radioactive component.

Q: What must I include in the notification to the landfill?

A: If you are disposing of PCB bulk product waste under §761.62(b)(1), the notice must state that the PCB bulk waste may include components containing PCBs at ≥50 ppm and that the PCB bulk waste is known or presumed to leach <10 μg/L PCBs. If you are disposing of PCB bulk product waste under §761.62(b)(2), the notification must state that the PCB bulk waste may include components containing PCBs at ≥ 50 ppm and that the PCB bulk product waste is known or presumed to leach ≥10 μg/L PCBs.

Q: ***What would happen if a facility disposed of something as non-PCB in a municipal landfill and the landfill (or other party) later determined that the PCB concentration of the article was ≥50 ppm?***

A: The facility would be in violation for failure to notify the landfill. However, the article would only need to be removed from the landfill if it was prohibited from disposal.

Q: ***Under §761.62(b)(4)(i), does a facility that owns a solid waste landfill and also generates its own PCB bulk product waste need to send a notice to itself when it disposes of its own waste?***

A: No, the intent of the notice is to give the landfill the opportunity to determine whether the waste may be managed under the landfill's permits.

Q: ***Does the requirement to dispose of PCB material within one year apply to PCB bulk product waste going to a state-approved landfill?***

A: Yes. Any PCB waste regulated for clean-up must be disposed of within one year unless the EPA Regional Administrator grants an extension (see §761.65(a)).

Q: ***How do I determine if a building scheduled for demolition would be PCB bulk product waste based on the PCB concentration in the applied dried paint on the building?***

A: EPA has not specified a procedure for collecting samples of applied dried paint prior to demolition of the painted surface. Subpart R is designed for post-demolition debris in piles. You may wish to contact your EPA regional office for advice on sampling (especially if you are planning to composite the samples), or to apply for an alternative sampling procedure through §761.62(c).

Q: ***Must a municipal solid waste facility accepting PCB bulk product waste keep annual records, keep annual document logs, and submit annual reports under subparts J and K? Are these wastes to be manifested? Must the receiving facilities have an EPA ID or notify EPA regarding their PCB waste activity?***

A. No (see §761.62(b)(6)).

§761.62(c) Risk-based disposal approval

Q: ***Is manifesting required for PCB bulk product waste disposed of in accordance with a risk-based disposal approval under §761.62(c)?***

A: PCB waste must be manifested unless the regulations or your disposal approval specify otherwise. There is no regulatory exception to manifesting in §761.62(c). You may work with the EPA Regional Administrator to resolve this issue when your risk-based approval is issued.

Q: On what factors are risk-based approvals based?

A: Whether to grant a risk-based approval is in the discretion of EPA. EPA may grant such an approval based on a finding that the sampling, disposal, or storage method will not pose an unreasonable risk of injury to health or the environment. The regulations do not specify what criteria EPA must consider in making this finding.

Q: What information must I include in an application for risk-based disposal of PCB bulk product waste?

A: You must include information indicating that, based on technical, environmental, or waste-specific characteristics or considerations, the proposed sampling, storage, or disposal methods or locations will not pose an unreasonable risk of injury to health or the environment. The specific data needed to support an individual application will vary from case to case.

Q: Under §761.62(c), may EPA issue an approval to allow me to recycle concrete coated with paint containing PCBs for use as aggregate for new concrete?

A: No. Section 761.62(c) allows EPA to issue a risk-based approval for sampling, disposal, or storage of PCB bulk product waste. EPA cannot issue a risk-based approval for a use not authorized by the regulations. Recycling concrete containing PCBs is use, not disposal, and this use is not authorized.

§761.62(d) Disposal as daily landfill cover or roadbed

Q: Under §761.62(d)(2), may I dispose of potting material under a roadbed?

A: Yes, if you have tested the potting material and determined that it leaches PCBs at <10 μg/L.

Q: If PCB bulk product waste is disposed of as a roadbed under asphalt, what are the regulatory implications when the asphalt is ground up for reuse?

A. The regulations allow disposal of PCB bulk product waste under an asphalt roadbed. This means that the PCB bulk product waste must not be dug up or disturbed after placement. You may not grind up and reuse the asphalt if doing so will disturb the PCB bulk product waste roadbed and result in exposure to PCBs.

Q: Under §761.62(d), what type of landfill may dispose of PCB bulk product waste as daily landfill cover?

A: The regulations do not restrict this form of disposal of PCB bulk product waste to particular types of landfills.

§761.63 PCB household waste storage and disposal

Q: ***Does the definition of PCB household waste include waste disposed of by colleges and universities? Does it matter whether the waste comes from dorms or from administration buildings?***

A: PCB household waste is waste generated by residents on the premises of temporary or permanent residences, and that consists primarily of materials found in waste generated by consumers in their homes. Waste containing PCBs from college and university dorms is PCB household waste; waste from administration buildings is not.

Q: ***If household waste managed by a municipal solid waste facility is unregulated, are the activities subsequently undertaken by the municipality or a second party unregulated (e.g., material recovery)? Also, does the waste continue to be unregulated after the municipality handles the material (e.g., baled refrigerators)?***

A: You may dispose of PCB household waste in a municipal or industrial solid waste facility. If the municipal or industrial solid waste facility sells or otherwise distributes the waste for further processing, it is no longer household waste. If the waste contains regulated PCBs, the facility that receives the waste must properly manage and dispose of it. For example, if a municipal solid waste facility sends baled refrigerators containing PCBs in paint or in small capacitors to a shredding facility for metal recovery, the shredding facility must manage and dispose of the refrigerators as PCB bulk product waste.

Q: ***Why does EPA believe homeowners may still have liquid paint with ≥50 ppm PCBs?***

A: EPA does not believe that most homeowners will have PCB-containing paint at concentrations of 50 ppm or greater. But, the Agency is aware of situations where homeowners have brought paint containing high concentrations of PCBs to municipal waste landfills for disposal.

§761.64 Disposal of Analysis Waste

General

Q: ***Section 761.64 states that waste generated during analysis of waste samples for PCBs may be managed at the PCB concentration in the waste, regardless of the concentration in the original sample. Does this apply only to waste produced in analyzing for PCB concentration or does it also apply to waste produced for other analyses (such as for metals or anions that may also be present in the sample)?***

A: Section 761.64 applies to waste from research and development activities involving analysis of samples containing PCBs. Dispose of wastes from chemical analysis of samples containing PCBs based on the PCB concentration of the waste at the time of disposal. (See §761.64(b).)

Q: ***How must I dispose of the unused portion of a sample that contains PCBs?***

A: Dispose of the unused portion of the sample in the same manner as the waste from which the sample was taken. For example, where analysis of a portion of a sample of mineral oil dielectric fluid shows that the PCB concentration is ≥50 and <500 ppm, dispose of the unused portion of the sample in an incinerator that complies with §761.70 or a high efficiency boiler according to §761.71(a).

Q: I have laboratory equipment that I used for analysis of samples that contain PCBs and samples that do not. Must I decontaminate the equipment between uses? May I follow the manufacturer's recommendations for cleaning the instrument instead of the decontamination procedures specified in §761.79?

A: You do not need to decontaminate chemical instruments in accordance with §761.79 after each use. However, when you clean the instrument during normal maintenance or according to the manufacturer's recommendations, you must dispose of the residual PCB-containing waste in accordance with §761.64. You must decontaminate instruments in accordance with §761.79 prior to distribution in commerce.

§761.64(a) Extracted samples

Q: Please clarify the phrase "unregulated for PCB disposal" as used in §761.64(a).

A: The phrase "unregulated for PCB disposal" means there are no disposal requirements affecting the PCB component of the waste. Other requirements may apply if the waste contains hazardous constituents besides PCBs.

§761.64(b) Other wastes

Q: What does the term "concentration at the time of disposal" mean in §761.64(b)? Has anti-dilution been waived for laboratory wastes generated from chemical analysis of samples for PCBs?

A: Yes. "Concentration at the time of disposal" means the existing concentration of PCBs in the laboratory waste as opposed to the PCB concentration attributed to the original sample.

Q: If waste is produced from an instrument during a series of analyses and the waste is collected into a single container, may the PCB concentration of the composite waste be used, or is it necessary to determine the PCB concentration for the waste produced for each individual analysis?

A: You may determine the PCB concentration of liquid laboratory waste either by analyzing the PCB concentration of the composite of all of the liquid waste in the container, or by using the PCB concentration from the sample or samples having the highest PCB concentration which is included in the container. Disposal of non-liquid laboratory waste does not depend on the PCB concentration of the waste.

Q: ***If I know a sample that I received for analysis contains PCBs ≥50 ppm, how must I store it?***

A: You are not required to comply with storage for disposal requirements because the sample is still in use (rather than in disposal) until analysis is completed. EPA recommends that you date the sample and label it with its PCB concentration.

Q: ***Under the Disposal Amendments, if a lab is storing for disposal a container of hazardous liquid waste generated from PCB analysis (such as spent solvent / hexane extract, deionized water, PCB oil sample, or reagent blanks), should the waste be labeled and disposed of as only RCRA hazardous waste and not PCB waste?***

A: If the waste contains regulated levels of PCBs, it must be marked, stored, and disposed of in accordance with the PCB regulations as well as in accordance with applicable RCRA regulations.

§761.65 Storage for Disposal

General

Q: ***What storage requirements apply to waste that may be disposed of in a non-TSCA facility, such as certain categories of PCB bulk product waste and bulk PCB remediation waste at concentrations <50 ppm, decontaminated waste <50 ppm, lab waste <50 ppm, and cleanup debris classified under remediation waste?***

A: The storage for disposal requirements in §761.65 apply to all types of PCB waste at concentrations ≥50 ppm, unless otherwise specified in the regulations. Storage of waste with <50 ppm PCBs is not subject to 761.65.

§761.3 Definition of "commercial storer"

Storing less than 500 gallons

Q: ***If a facility's storage of PCB waste generated by others does not exceed 500 gallons, must the facility notify EPA as a commercial storer (realizing that approval is not needed), keep records as required by §761.180(b), and submit annual reports?***

A: Yes. The definition of "commercial storer of PCB waste" states, "If a facility's storage of PCB waste generated by others at no time exceeds a total of 500 gallons of liquid and/or non-liquid material containing PCBs at regulated levels, the owner or operator is a commercial storer but is not required to seek EPA approval as a commercial storer of PCB waste." Nonetheless, the facility must comply with the requirements pertaining to commercial storers in Subparts J and K, including notification, recordkeeping, and reporting.

Q: ***If a facility's storage of PCB waste generated by others does not exceed 500 gallons, does***

the storage facility need to meet the structural requirements of §761.65(b)?

A: Yes. A facility that stores no more than 500 gallons of PCB waste generated by others is not required to obtain approval as a commercial storer. The storage facility must nonetheless comply with the requirements of §761.65(b).

Q: If a facility's storage of PCB waste generated by others does not exceed 500 gallons, and the facility experiences a PCB leak, does the facility have to follow the PCB rules when cleaning up the spill?

A: Yes. A facility that stores no more than 500 gallons of PCB waste generated by others is not required to obtain approval as a commercial storer. All other provisions of the PCB rules apply.

Related company

Q: A rural electric cooperative is owned by its members. If the cooperative stores leaking small capacitors generated by farmers who are members of the cooperative, is the cooperative a commercial storer?

A: No. The definition of "commercial storer of PCB waste" states that storage of one company's waste by a related company is not considered commercial storage. Members of electric cooperatives are considered related companies. Therefore, the cooperative may store the PCB waste of its members without engaging in commercial storage.

Q: If one government agency stores waste for another government agency, is the first agency a commercial storer?

A: Entities within the same executive agency may store each others' waste without being considered commercial storers. However, if one executive agency stores the waste of another executive agency, this constitutes commercial storage.

Q: If a utility has a contract to service customer-owned equipment, is the utility a commercial storer?

A: It depends. A commercial storer of PCB waste is a facility that engages in storage activities involving PCB waste generated by others. Some examples of waste generated by the utility's customers are PCBs removed from equipment sold to the utility for salvage rather than repair (the customer has made the decision to dispose of the equipment, so any PCBs it contains are considered a waste), and PCB waste resulting from a type of servicing that the customer knows will generate PCB waste, such as reclassification of a transformer. If the customer sends the equipment to the utility for servicing not knowing whether the servicing will produce a PCB waste, the customer is not the generator of PCB waste. Any waste that does result from the servicing is generated by the utility. For more information contact your EPA Regional Office.

§761.65(a)(1) Storage limitations

Q: ***The Disposal Amendments provide that PCB/radioactive waste removed from service for disposal is exempt from the 1-year time limit for storage for disposal, provided certain records are kept. Does this apply to non-DOE PCB/radioactive waste?***

A: Yes.

§761.65(a)(2) One-year extension

Q: ***If an article was taken out of service, but is stuck in litigation prior to disposal beyond one year storage for disposal, what happens?***

A: Contact the EPA Regional Administrator to request an extension of the one-year storage limit.

§761.65(b) Storage Containers/Units

§761.65(b)(2) Non-65(b) areas

Q: ***Does §761.65 allow RCRA storage facilities to store PCB waste without additional TSCA storage approvals?***

A: Yes, you may store waste in a facility permitted or authorized under RCRA §§3004, 3005, or 3006 without additional TSCA approval. RCRA regulations at 40 CFR 264.111 require the owner or operator of the RCRA storage facility to close the facility in a manner that controls, minimizes, or eliminates the post-closure escape of hazardous constituents, including PCBs.

Q: ***Which containment standards apply to the storage of PCB/radioactive waste in RCRA interim status facilities, RCRA or TSCA?***

A: PCB/radioactive waste may be stored in a facility permitted or authorized under RCRA §§3004, 3005, or 3006 without additional TSCA approval.

Q: ***Under §761.65(b), PCBs may be stored for disposal in areas meeting the requirements of RCRA §§3004, 3005, or 3006. May I store PCBs in accordance with the requirements for 90-day accumulation under RCRA (40 CFR 262.34)?***

A: No. The allowance to store in a RCRA permitted facility does not include the 90-day generator storage provision or storage in satellite accumulation areas.

§761.65(c) Storage in DOT containers

Q: ***May I use a roll-off bin or a tank truck as a shipping container for PCBs?***

A: Refer to the requirements of the DOT Hazardous Materials Regulations at 49 CFR parts 171 through 180.

§761.65(c)(9) Bulk PCB remediation waste and PCB bulk product waste

Q: How is "storage" defined as it relates to PCB remediation waste prior to clean up (i.e., contaminated media as it sits in place)?

A: This waste would be considered improperly disposed of, rather than stored for disposal. The storage for disposal requirements apply if you store the waste after removing it from the site of improper disposal.

Q: PCB remediation waste is stored on-site at the generator's facility. The PCB remediation waste is generated from a cleanup from a post July 2, 1979 spill having a source ≥50 ppm PCBs. The PCBs in the PCB remediation waste soil stockpile are all detected at <50 ppm. Do the storage requirements for bulk PCB remediation waste apply to this soil?

A: It depends. The storage requirements at §761.65 apply to waste with PCB concentrations ≥50 ppm. PCB remediation waste is regulated based on the concentration at which the waste is found. You may not dilute the as-found concentration of the contaminated soil by mixing it with clean soil during excavation or other management activities. If the waste was stockpiled prior to the effective date of the Disposal Amendments (August 28, 1998), the as-found concentration is the current concentration of the stockpile. However, if the waste was excavated into piles after that date, the as-found concentration is the concentration of the soil before it was excavated and potentially mixed with clean soil. If the as-found PCB concentration of the waste is ≥50 ppm, the storage requirements apply.

Q: If PCBs and absorbent materials that may be disposed of in a non-TSCA landfill are generated during waste remediation, is the generated waste subject to the storage requirements?

A: If the PCB concentration in the waste is ≥50 ppm, it is subject to the storage for disposal requirements, unless the regulations specifically provide otherwise for the type of waste you are managing.

Q: May a facility that does not have access to a RCRA or TSCA disposal facility store PCB bulk product waste from a demolition project on its site?

A: The facility may store PCB bulk product waste at the demolition site for 180 days provided specified conditions are met to prevent migration or dispersal of the waste. (See §761.65(c)(9).) Alternatively, the facility may apply for a risk-based storage approval under §761.62(c).

Q: At what point is PCB bulk product waste from a demolition project subject to the storage

for disposal requirements? This material is generated in large volumes and it is moved off-site quickly.

A: PCBs are subject to the storage for disposal requirements as soon as they become a waste. Approved storage for PCB bulk product waste includes storage in piles under conditions specified in §761.65(c)(9) for up to 180 days.

Q: Section 761.65(c)(9) allows storage of bulk remediation waste and bulk product waste up to 180 days at the "cleanup site" or at the "site of generation." What is the difference between the two?

A: These two terms have essentially the same meaning. "Cleanup site" is defined as "the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of a cleanup of PCB remediation waste, regardless of whether the site was intended for management of waste."

Q: A facility has pre-1978 ballasts and other bulk product waste in roll-off boxes. May the facility store these wastes in containers for up to 180 days under §761.65(c)(9) before they are shipped out?

A: The regulations do not expressly allow for this type of storage. Under §761.62(c), you may request approval for risk-based storage of PCB bulk product waste in a manner not provided for in the regulations.

Q: What are the physical requirements for storage for disposal of dry natural gas pipe containing PCBs?

A: This pipe is regulated as a PCB Article, but may also be disposed of or stored for disposal in accordance with the requirements applicable to PCB remediation waste. Therefore, the pipe must be stored in accordance with §761.65(b) or (c)(9). Alternatively, you may request a risk-based storage approval under §761.61(c).